

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

**CEDARCRESTONE, INC.,**

**Plaintiff,**

**v.**

**AFFILIATED COMPUTER  
SERVICES, LLC n/k/a XEROX  
BUSINESS SERVICES, LLC**

**Defendant.**

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**Civil Action No. 3:12-cv-4673**

**PLAINTIFF’S OBJECTIONS TO DEFENDANT’S TRIAL EXHIBIT LIST**

Pursuant to the Federal Rules of Civil Procedure and the Scheduling Order entered by the Court on January 25, 2015 [Dkt. No. 11], as modified by the Court’s Orders dated September 3, 2013 [Dkt. No. 45] and July 17, 2014 [Dkt. No. 188], Plaintiff CedarCrestone, Inc. (“Plaintiff” or “CCI”) hereby submits its Objections to Defendant Affiliated Computer Services, LLC n/k/a Xerox Business Services, LLC (“Xerox”) proposed Trial Exhibit List, and in support thereof CCI respectfully states:

**SPECIFIC OBJECTIONS TO DEFENDANT'S TRIAL EXHIBITS**

<b>Ex. No.</b>	<b>Date</b>	<b>Description</b>	<b>Bates No.</b>	<b>Objection</b>
19	09/20/11	Email from N. Sabatiel to K. Matsko	XBS00023037	Lacks foundation/ authentication (FRE 602/901)  Hearsay (FRE 801/802)
22	10/12/11	Email from N. Sabatiel to A. Levin	XBS00551678-680	Lacks foundation/ authentication (FRE 602/901)  Hearsay (FRE 801/802)
39	03/04/14	Ongoing Summit Forecast v036.xls	XBS00183964	Lacks foundation/ authentication (FRE 602/901)  Hearsay (FRE 801/802)
40		Van Meter Demonstrative Exhibits		Demonstratives not provided.  CCI reserves its right to assert objections at a later date in compliance with the Parties' agreement regarding demonstratives.
41	10/15/10-07/31/11	Composite Exhibit of CedarCrestone Invoices	XBS00160157; XBS00172454; XBS00172428; XBS00159104; XBS00159205; XBS00160193; XBS00159293; XBS00159314; XBS00160232; XBS00159530; CCI0002823; CCI0002822; CCI0002761	Inaccurate description; incomplete.  Prejudicial (FRE 403)  CCI objects to Xerox's characterization/ description of this exhibit. This exhibit is not a full composite and/or summary of CCI's invoices and presentation as same would be misleading to the jury.

42		Summary Exhibit: Summarization of the CedarCrestone Invoices	XBS00160157; XBS00172454; XBS00172428; XBS00159104; XBS00159205; XBS00160193; XBS00159293; XBS00159314; XBS00160232; XBS00159530; CCI0002823; CCI0002822; CCI0002761	Inaccurate description; incomplete.  Prejudicial (FRE 403)  CCI objects to Xerox's characterization/ description of this exhibit. This exhibit is not a full composite and/or summary of CCI's invoices and presentation as same would be misleading to the jury.
43	01/03/11- 10/11/11	Proof of Payment of CedarCrestone Invoices	XBS01710488- 1710497	Lacks foundation/ authentication (FRE 602/901)
44	06/15/11- 08/15/11	Proof of Payment of CedarCrestone Invoices	XBS01710507- 1710512	Lacks foundation/ authentication (FRE 602/901)
47	04/26/12- 01/02/13	Proof of Payment of Cigna Invoices	XBS00540438	Lacks foundation/ authentication (FRE 602/901)
48	05/10/12	Proof of Payment of Cigna Invoices	XBS01710498	Lacks foundation/ authentication (FRE 602/901)
49	11/26/12	Proof of Payment of Cigna Invoices	XBS01710499	Lacks foundation/ authentication (FRE 602/901)
50	07/11/12	Proof of Payment of Cigna Invoices	XBS01710500	Lacks foundation/ authentication (FRE 602/901)
51	12/02/11- 09/26/12	Composite exhibit of Summit Invoices	XBS00096321; XBS00541014; XBS00106716; XBS00472656; XBS00194646; XBS00472655; XBS00472652; XBS00096470; XBS00081603; XBS00472663; XBS00410345; XBS00410347;	Lacks foundation/ authentication (FRE 602/901)  Hearsay (FRE 801/802)

51 (cont)			XBS00472661; XBS00472662; XBS00472669; XBS00472664; XBS00472665; XBS00472667; XBS00472668; XBS00096114; XBS00096128; XBS00096120; XBS00096118; XBS00096126; XBS00096134; XBS00096124; XBS00096107; XBS00278824; XBS00184032; XBS00184028; XBS00194681; XBS00184024; XBS00184020; XBS00184016; XBS00194685; XBS00184000; XBS00194643; XBS00473048	
52		Summary Exhibit: Summarization of the Summit Invoices	XBS00096321; XBS00541014; XBS00106716; XBS00472656; XBS00194646; XBS00472655; XBS00472652; XBS00096470; XBS00081603; XBS00472663; XBS00410345; XBS00410347; XBS00472661; XBS00472662; XBS00472669; XBS00472664; XBS00472665; XBS00472667; XBS00472668; XBS00096114;	Lacks foundation/ authentication (FRE 602/901)  Hearsay (FRE 801/802)

52 (cont)		Summary Exhibit: Summarization of the Summit Invoices	XBS00096128; XBS00096120; XBS00096118; XBS00096126; XBS00096134; XBS00096124; XBS00096107; XBS00278824; XBS00184032; XBS00184028; XBS00194681; XBS00184024; XBS00184020; XBS00184016; XBS00194685; XBS00184000 XBS00194643; XBS00473048	
53	12/02/11- 08/17/12	Proof of Payment of Summit Invoices	XBS00540437	Lacks foundation/ authentication (FRE 602/901)
54	06/15/11- 08/15/11	Proof of Payment of Summit Invoices	XBS01710507	Lacks foundation/ authentication (FRE 602/901)
55	01/02/12- 08/01/12	Composite Exhibit of Stonehenge Invoices	XBS00184030; XBS00184026; XBS00184022; XBS00184018; XBS00184014; XBS00184010; XBS00184006; XBS00184002	Lacks foundation/ authentication (FRE 602/901)  Hearsay (FRE 801/802)
56		Summary Exhibit: Summarization of the Stonehenge Invoices	XBS00184030; XBS00184026; XBS00184022; XBS00184018; XBS00184014; XBS00184010; XBS00184006; XBS00184002	Lacks foundation/ authentication (FRE 602/901)  Hearsay (FRE 801/802)
57	01/19/12- 09/25/12	Proof of Payment of Stonehenge Invoices	XBS00540438c	Lacks foundation/ authentication (FRE 602/901)

58	02/11/12- 08/04/12	Composite exhibit of Newbury Invoices	XBS00540969; XBS00184045; XBS00540971; XBS00184037; XBS00540973; XBS00183969; XBS00540974; XBS00184025; XBS00540976; XBS00183967; XBS00184017; XBS00184013; XBS00540979; XBS00184005; XBS00540981; XBS00183998; XBS00183995; XBS00183992; XBS00540985; XBS00183986; XBS00540994; XBS00183983; XBS00183980; XBS00540989; XBS00183974; XBS00540991	Lacks foundation/ authentication (FRE 602/901)  Hearsay (FRE 801/802)
59		Summary Exhibit: Summarization of the Newbury Invoices	XBS00540969; XBS00184045; XBS00540971; XBS00184037; XBS00540973; XBS00183969; XBS00540974; XBS00184025; XBS00540976; XBS00183967; XBS00184017; XBS00184013; XBS00540979; XBS00184005; XBS00540981; XBS00183998; XBS00183995; XBS00183992; XBS00540985; XBS00183986;	Lacks foundation/ authentication (FRE 602/901)  Hearsay (FRE 801/802)

59 (cont)			XBS00540994; XBS00183983; XBS00183980; XBS00540989; XBS00183974; XBS00540991	
60	05/17/12- 07/02/12	Proof of Payment of Newbury Invoices	XBS00540438b	Lacks foundation/ authentication (FRE 602/901)
61	06/20/12- 10/01/12	Proof of Payment of Newbury Invoices	XBS001710501 -1710506	Lacks foundation/ authentication (FRE 602/901)
62		HP QC Export – 8.9.2011 to 12.6.2012.xlsx	XBS00151203	Lacks foundation/ authentication (FRE 602/901)  Hearsay (FRE 801/802)  Voluminous, overbroad; CCI cannot ascertain what portions Xerox intends to offer at trial.
63	01/26/11	RICEF (Technical Inventory) v.2	XBS0000039	Lacks foundation/ authentication (FRE 602/901)  Hearsay (FRE 801/802)  Best evidence (to the extent offered to prove scope) (FRE 1001/1002)
64	11/21/11	Composite Exhibit: Email from Venu Guggilla to Akshay Samal with attachment	CCI0988170-71	Lacks foundation/ authentication (FRE 602/901)  Hearsay (FRE 801/802)  Best evidence (FRE 1001/1002)
65		HPQC Defect Report – Defect 1988		Lacks foundation/ authentication (FRE 602/901)  Hearsay (FRE 801/802)

76		HPQC Defect Report – Defect 1781		Lacks foundation/ authentication (FRE 602/901)  Hearsay (FRE 801/802)
79		HPQC Defect Report – Defect 1985		Lacks foundation/ authentication (FRE 602/901)  Hearsay (FRE 801/802)
80	11/13/11	Email from Ramesh Kenath to Eve Richardson et al.	CCI1001154-1158	Lacks foundation/ authentication (FRE 602/901)  Hearsay (FRE 801/802)
82	11/22/11	Email from Ramesh Kenath to Becky Hutcherson and Eve Richardson	CCI1000898-902	Lacks foundation/ authentication (FRE 602/901)  Hearsay (FRE 801/802)
83		HPQC Defect Report – Defect 758		Lacks foundation/ authentication (FRE 602/901)  Hearsay (FRE 801/802)
84	10/10/11	Email from Yulin Kriz to Becky Hutcherson	CCI0320179	Hearsay (FRE 801/802)
87		HPQC Defect Report – Defect 1312		Lacks foundation/ authentication (FRE 602/901)  Hearsay (FRE 801/802)
89		HPQC Defect Report – Defect 743		Lacks foundation/ authentication (FRE 602/901)  Hearsay (FRE 801/802)
90		HPQC Defect Report – Defect 1429		Lacks foundation/ authentication (FRE 602/901)  Hearsay (FRE 801/802)



91		HPQC Defect Report – Defect 2102		Lacks foundation/ authentication (FRE 602/901)  Hearsay (FRE 801/802)
122	04/15/14	Appendix 2 to Trivett Report – Open/Close Rates of PeopleSoft HPQC Defects by Severity	Trivett Report	Lacks foundation/ authentication (FRE 602/901)  Speculation  Irrelevant (FRE 401/402)
123		HPQC Report: System Test	HPQC	Lacks foundation/ authentication (FRE 602/901)  Voluminous; overbroad  Hearsay (FRE 801/802)
124		HPQC Report: Integration Test	HPQC	Lacks foundation/ authentication (FRE 602/901)  Voluminous ;overbroad  Hearsay (FRE 801/802)
125		HPQC Report: Execution Test	HPQC	Lacks foundation/ authentication (FRE 602/901)  Voluminous; overbroad  Hearsay (FRE 801/802)
126		Trivett Demonstrative Exhibits	HPQC	Demonstratives not provided.  CCI reserves its right to assert objections at a later date in compliance with the Parties’ agreement regarding demonstratives.
127	09/28/10	CIGNA HCM 9.1 Upgrade Project Kickoff Presentation for ACS V2	CCI0713852-874	Lacks foundation/ authentication (FRE 602/901)

128	10/24/10	PeopleSoft HCM 9.1 Upgrade CCI Consolidated Project Background	CCI0115586- 619	Lacks foundation/ authentication (FRE 602/901)  Best Evidence (FRE 1001/1002)
130	12/13/10	Cigna Transition project – Comprehensive Test Strategy: version 8	CCI0150897- 961	Irrelevant (FRE 401/402)
142		CIGNA HR BPO Unit Testing Completion Acceptance Criteria	CCI0250182- 185	Lacks foundation/ authentication (FRE 602/901)  Hearsay (FRE 801/802)  Best Evidence (FRE 1001/1002)  Irrelevant (FRE 401/402)  Prejudicial (FRE 403)
162	11/02/11	Composite email. Email from Nancy Sabatiel to Paul Simmons	XBS00019969	Hearsay (FRE 801/802)
287	10/14/11	Email from Kathy Matsko to Lisa Ippolito and Mark McGloughlin	XBS00011418- 428	Hearsay (FRE 801/802)
321	11/05/10	Email from Mike Noack to Ryan Roberts	XBS00085041- 043	Hearsay (FRE 801/802)
376		A Guide to the Software Engineering Body of Knowledge V3.0, Institute of Electrical and Electronics Engineers Computer Society (IEEE-CS), 2014	Trivett Rpt.	Irrelevant (FRE 401/402)
377	06/23/09	AACE International Recommended Practice No. 29R-03, Forensic Schedule Analysis, TCM Framework: 6.4 – Forensic Performance Assessment, June 23, 2009 Revision, § 1.1 Introduction	Trivett Rpt.	Irrelevant (FRE 401/402)

378		Software Engineering Code of Ethics, Institute of Electrical and Electronics Engineers Computer Society (IEEE-CS), 1999, § 2.06	Trivett Rpt.	Irrelevant (FRE 401/402)
381		Jones, Capers, Applied Software Measurement: Assuring Productivity and Quality, 1996, McGraw-Hill, Inc., ISBN: 0-07-032813-7	Trivett Rpt.	Irrelevant (FRE 401/402)
382		Lewis, William E. Software Testing and Continuous Quality Improvement, Third Edition, Boca Raton: Auerbach Publications 2009	Trivett Rpt.	Irrelevant (FRE 401/402)
383		ISTQB Standard glossary of terms used in Software Testing, Version 2.2	Trivett Rpt.	Irrelevant (FRE 401/402)
384		Brooks, Jr. Frederick P. The Mythical Man-Month: Essays on Software Engineering. Crawfordsville: Addison-Wesley, 1995.	Trivett Rpt.	Irrelevant (FRE 401/402)
385		“Happy Path” Testing, Software Engineering Institute, Carnegie Mellon University, 2009	Trivett Rpt.	Irrelevant (FRE 401/402)

### **CONCLUSION**

For all the reasons stated herein, Plaintiff CedarCrestone, Inc. respectfully requests that the Court exclude from evidence at trial Defendant’s proposed Trial Exhibit Nos. 19, 22, 39-44, 47-65, 76, 79, 80, 82-84, 87, 89-91, 122-128, 130, 142, 162, 287, 321, 376-378, 381-385, as well as grant Plaintiff any and all other relief to which it is entitled.

Date: February 13, 2015

Respectfully submitted,

**DYKEMA GOSSETT PLLC**

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**ATTORNEYS FOR CEDARCRESTONE**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of these Plaintiff's Objections to Defendant's Trial Exhibit List is being served electronically via-email on counsel of record on this 13<sup>th</sup> day of February, 2015.

/s/ Christine A. Nowak

Christine A. Nowak